

# **AN EVALUATION OF VILLAGE COURT:**

## **A Study on Selected Village Courts Bangladesh**

*Dissertation submitted in partial fulfillment for the requirements of the Degree  
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## **Abstract**

The Union Parishad is a century old rural institution established in the grass root level in Bangladesh. It has been initiated, developed and run by the rural people. It is an established popular centre for service delivery with popular image. This ancient institution has been more enlightened with the running of Village Courts. From the very beginning of the Union Parishad it engages with the informal judicial system like Shalish. It has been emerged because of people desire; rural people always try to avoid lengthy and expensive process of formal courts. For fulfilling the people desire Village courts has emerged in mid-seventies with a view to improving the situation of Shalish. But with the passage of time it has lost its position due to poor functioning. At present the Government of Bangladesh with the help of UNDP and EU has taken ‘Activating Village Courts project’ for the better performance of Village Courts.

It is found from the study that though the Village Courts have limitations and drawbacks but still it is playing an important role in the settlements disputes and maintaining social peace and tranquility in the rural area. The Village Court is conducted by the Village Court Act, 2006. It has been promulgated in Bangladesh to save the rural people from the sufferings and hazards of the formal courts. Bangladesh is one of the developing countries of the world and most of its population lives in villages. So, the Village Court is very important for the rural people and for this reason it is very important to strengthen this system. The study examined the existing rural justice system named Village Courts in Bangladesh and argued that this justice system, if properly nurtured and reformed, could be a attractive alternative to the formal system of justice for the rural people of the country. The study also found that the performance of the existing Village Courts is constrained by poor implementation capacity and record management of the Village Courts, lack of knowledge of the related personnel about Village Courts etc. An increase of jurisdiction, supervision by the formal courts, proper training of Village Court related personnel and awareness buildup program by the both Government and Non-Government Organizations can make the Village Courts more effective. The present initiatives by ‘Activating Village Court Project’ is increasing performance of Village courts so, project like initiative should be disseminate throughout the country. After ending the project system should be continue all over the country for the better performance of Village Courts.

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## Acronyms and Abbreviations

<b>AVCP</b>	Activating Village Court Project
<b>ADR</b>	Alternative Dispute Resolution
<b>BRAC</b>	Bangladesh Rural Advancement Committee
<b>DC</b>	Deputy Commissioner
<b>DDLG</b>	Deputy Director of Local Government
<b>EU</b>	European Union
<b>FGD</b>	Focus Group Discussion
<b>IGS</b>	Institute of Governance Studies
<b>LGED</b>	Local Government Engineering Division
<b>MAGD</b>	Masters in Governance and Development
<b>MoLGRD&amp;C</b>	Ministry of Local Government, Rural Development and Cooperatives
<b>NGO</b>	Non-Government Organization
<b>OC</b>	Officer in Charge of Police Station
<b>SDO</b>	Sub Divisional Officer
<b>UNDP</b>	United Nations Development Program
<b>UNO</b>	Upazila Nirbahi Officer
<b>UP</b>	Union Parishad
<b>VC</b>	Village Court

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# **An evaluation of Village Court: A study on Selected Village courts, Bangladesh**

## **Chapter-1: Introduction**

### **1.1 General Background**

The story of rural justice system started with the enactment of the Bengal Village Self Government Act, 1919. The Act established union courts dealing with offences and disputes of relatively lower scale in the rural areas. Later, the Pakistan government, in order to deal with the minor civil and criminal disputes, replaced the act and enacted the new Conciliation Courts Ordinance, 1961. After the independence, to ensure equality and justice to the rural and marginalized people, the government enacted Village Courts Ordinance, 1976. The idea was to resolve disputes within a short span of time which also required poor litigants to spend a small amount of money to obtain justice. The ordinance had been shelved until its recent revival. The ordinance was repealed by the enactment of the Village Courts Act, 2006. A village court comprises of union parishad (UP) chairman and four other members, to be nominated two members by each party amongst which one must be a UP member. Each member including the chairman has got one vote and decision is taken by a vote of majority. It is an inexpensive and short process where litigants can get decision in normal case within one month, which can be implemented within maximum six months. The Village Courts in Bangladesh are established with the objectives that poor village shall get easy access to justice without any cost, they can be freed from accepting unwanted decision given by the dominant or elite classes of village in the name of justice and disputant parties can be able to solve their problems by themselves with a little or necessary assistance from these dispute resolution forums. But the village courts have failed to achieve the objectives. For this reason government has initiated ‘Village Courts Activating Project’ with the assistance of UNDP from 2009. The access to the formal court is extremely limited for the rural poor people because 8 out of 10 Bangladeshis live in villages and most of the formal courts are situated in urban centers. As the lowest formal court is at the district level, the rural poor have to bear travel and logistics costs that pose additional burdens (Siddiqi 2003). Therefore, large segments of the population who lack information or means to surmount the significant substantive and procedural barriers seek informal mechanisms (Shalish) to redress their grievances.

At present there are 4,488 union parishad in Bangladesh (Statistical year Book of Bangladesh-2004, p.27). These union Parishads play a vital role in the economic and socio-cultural life of the rural people. As the chairmen and members of the union parishads are elected by the local people, they have greater accountability to them the chiefs of the informal Shalish procedures. The village court Act came into force in 2006(replaced in village court ordinance, 1976). The Act was promulgated to settle petty disputes in rural areas and the disputes are both civil and criminal in nature. Village courts providing villagers with an alternative of less expensive means of dispute resolution near their homes.

## **1.2 Objectives of the study**

Though the UP has been assigned with many functions (mandatory and optional) of various kinds vide the Local Government (Union Parishad) Act 2009, it is playing insignificant role in local level administration at present. Most of the UPs are rendering some infrastructural services, conducting ‘Village Court’ for settlement of local arbitrations under limited capacity, compiling birth registration, issuing citizen certificate, and overseeing health, education, and agricultural services. Village Court Ordinance was promulgated 35 years ago, but it has been reformed by the Village Court Act, 2006 in line with the economic and social changes. Though a long time has passed after introducing this village justice mechanism, the government of the country has not undertaken many researches to assess the performance of this judicial institution, or to assess whether the institution is being able to fulfill the aims they were introduced to meet. In 2009, Government of Bangladesh with the help of UNDP & European Union has conducted a baseline survey on VCs and launched a project named ‘Activating Village Courts in Bangladesh’. But, no study has been done to assess their performance. Some non-government organizations and some private individuals in the recent years have conducted some researches on the village courts that show that the performance of the village courts is very poor and unsatisfactory. Most of the researches were sponsored either by NGOs or by Donor agencies that were inclined or biased to their own form of arbitration methods. So, an in-depth study to dig out the problems of the rural justice system is required to address the problems. The primary objective of the research is to analyze how much the access to justice needs is fulfilled by the existing rural formal justice system (Village Court). The specific objective is to identify the challenges associated with the Village Court Act & Actors (both service provider & service seekers) in dispensing justice locally through village court. Another important objective of my study is to identify whether the village court performs its activities better or not after initiating ‘Activating Village Court project’. The main objectives of my study in brief are as follows:



- To examine the effectiveness of village court in terms of its function.
- To examine the effectiveness of village court after initiating Activating Village Court Project.

### **1.3 Research question**

- Does the present village court meet the people demand?
- Does village court effectively work after initiating ‘Activating Village Court Project’?

### **1.4 Methodology**

Research methods usually depend upon the nature of the research as well the research questions. The present study has covered only qualitative approach of information or data collection. The use of one single method in social research is not always enough to respond to the research need rather a combination of methods is more useful to bring desired level of methodological sophistication (Aminuzzaman, 1991). So, for better understanding the nature of the problem, several techniques will be used. The techniques like in-depth interview with semi-structured questionnaire, focus group discussion, case study and content analysis methods have been practiced. Interview is a systematic method by which a person enters deeply into the life of even a stranger and can bring out needed information and data for research proposal (Aminuzzaman, 1991). The study relies on both primary and secondary sources. The primary data was collected with the help of eight sets of questionnaire for different groups of people who are either directly related to the village courts or indirectly related to the village courts proceeding. Though there were set questionnaire for collecting the information from the respondents, there were also informal interviews with the respondents which were not guided by the preset assumptions of the interviewer, but they were asked to discuss any issues and concerns related to the village courts. This primary data was also collected with the help of discussion and personal interviews with the respondents. Secondary data will be collected from the village courts file, register and different books and journal etc. Besides this relevant circulars/ reports and meeting minutes were collected throughout the research. These documents were used to understand the justice scenario at local level.

## 1.5 Types of respondents in the study

**Table-1: Types of respondents in the study**

Types of respondents	Number of respondents
Village court chairman(AVCP area and outside AVCP area)	2
Petitioners of the village courts (AVCP area and outside AVCP area)	10
Opponents of the village courts (AVCP area and outside AVCP area)	10
Local elites (AVCP area and outside AVCP area)	06

## 1.6 Research Location

Primary data was collected from two unions of Katiadi Upazila under Kishoreganj district one union was Masua (AVCP area) and other was Luhajuri (outside AVCP area).

Fieldwork was conducted in between 15<sup>th</sup> January 2013 to 22<sup>nd</sup> January 2013.

## 1.7 Conceptual and theoretical framework

To provide justice is not a simple process where a range of different inter-related factors combines together to facilitate citizens to achieve a satisfactory remedy for a complaint. Such factors include an adequate legal framework, legal awareness and well-functioning institutions of justice that are physically and economically accessible to all the stakeholders. UNDP (2005) has developed a conceptual framework of Access to Justice illustrates this process in simple terms. The five stages of the access to justice process are: Legal protection, Legal awareness, Legal aid and counsel, Adjudication, Enforcement and oversight.

Again, International Consortium for Court Excellence (2008:12) identifies Seven Areas of Court Excellence. The areas are: Court management and Leadership, Court Policies, Human, Material and Financial resources, Court proceedings, Client needs and Satisfaction, Affordable and Accessible Court services, Public Trust and Confidence.

They also have identifies several Court Values which are also essential in dispensing quality justice. The values are Equality (before the law), Fairness, Impartiality, Independence of decision-making, Competence, Integrity, Transparency, Accessibility, Timeliness, Certainty.

From the above three models the important issues related in dispensing justice are as follows:

**Legal protection** is the first stage in the access to justice process, which determines the legal basis for all other stages in the process. It involves the legal capacities of a justice system to ensure that people's rights are recognized within the scope of justice systems, thus giving entitlement to remedies either through formal or traditional mechanisms. If a grievance, no matter how grave it is, is not recognized in law, formal or informal, no legal remedy or justice remedy is possible (UNDP 2005).

**Legal awareness** is another most crucial stage in the access to justice process. Even if there are provisions for full or adequate legal protection in a justice system and people don't know about what the available legal remedies are, from whom to demand it, and how to start a formal or traditional justice process, the system can help little to achieve the goal, the justice (UNDP 2005).

**Adjudication** generally refers to a process of decision making that involves a neutral third party with the authority to determine a binding resolution through some form of judgment or award.

The primary functionary involved in a formal adjudication system is the judiciary. The judiciary consists of judges and magistrates as well as administrative staff etc. The actors involved in adjudication in the semi-formal or traditional informal justice systems may be community leaders, local government representatives, local government officials or community based informal authority, like village panchayat or village council etc. (UNDP 2005).

**Enforcement** is the final, hence, vital stage of access to justice process. The stage relates to the implementation of orders, decisions, and settlements emerging from formal or traditional adjudication. Without enforcement, a decision is valueless, no matter how good or well-argued decision that may be (UNDP 2005).

**Support Mechanism** is another crucial stage in the legal process of access to justice. While legal awareness can help people understand their right and remedies, mere this awareness cannot lead them to justice. People need to reach these remedies for which they may require professional help to make informed decisions and choices.

**Monitoring and oversight** mechanisms are crucial for access to justice process. Even after having adequate legal and institutional arrangements for access to justice, the ultimate justice outcomes from a justice system may be unsatisfactory because of absence of accountability. Oversight mechanisms ensure the accountability of the system. There may be oversight mechanism within the

justice system itself. Outside actors such as National Human Rights Institutions, Ombudsman offices also work as oversight mechanisms.

**Operational efficiency and Competency** is a must in dispensing justice. Operational efficiency involves the capacity of adjudication system to try cases and deliver judgments timely. It concerns an array of issues like efficient court room management, case management, efficient prosecution, investigation process, efficient rule and procedures for analysis and interpretation of fact, law and evidence and decision making. Again, a good outcome from judicial system is very much dependent on the **integrity and accountability of the people with the system**. While it depends to a great extent on the personal integrity of the judges and prosecutors as well as on the other supporting agencies, it largely depends on the overall mechanism for accountability in the system. Integrity and accountability involve various issues like judicial independence, political will, monitoring and performance evaluation, level of legal knowledge and expertise of the service providers (UNDP 2005).

**Resources** are very important in dispensing justice. It involves the human resources like adequate number of judges, judicial officers, judicial support staffs and prosecutors, financial resources such as sufficient budget, standard and satisfactory salary scale of the duty bearers, material resources like offices, office furniture, stationary, paper and forms, legal resources such as laws, legal information, law reports, law gazettes and other publications or reference materials.

**Attitudes and perceptions towards legal systems** is also a very crucial in dispensing justice. If people have little or no confidence towards the legal system they are not approach to the legal system and legal system is not be able to satisfy the service seekers. From the discussion it is clear that dispensing justice involves various interlinked capacities of both the service seekers and service providers. These are:

- a. Capacities of the central government to provide justice remedies.
- b. Capacities of the service providers/local government (UP) to dispense justice.
- c. Capacities of the service seekers (Rural People) to demand justice.

For assessing the existing legal framework of Village Court and the capacities of the Government, the existing Laws/Rules and monitoring/oversight mechanism should be examined. To assess the institutional capacity of the Village Court/UP and the competency of the UP officials, the institutional framework of the UPs (resources, awareness and competencies of the UP officials) should be examined. To assess the capacities of the people to demand justice, the level of awareness

and their perceptions towards the rural formal justice system (village Court) and informal justice system (Shalish) should be examined. (Belayet-2012)

In brief, the analytical framework argues that dispensation of justice through the village court is dependent on several sets of capacities of both the service seekers and providers and the presence of adequate support mechanisms. Dispensation of justice could be ensured when the grievances of the rural people are recognized by the laws and rules, justice dispensing body like Union Parishad has adequate resources to run the Village Court and court officials have adequate legal awareness and competencies in dispensing justice. Legal awareness of the service seekers and their perceptions towards legal system are equally important in dispensing justice. So, the inclusion and participation of the service seekers to the rural justice system (VC), the capacity building of the UPs and its officials as well as the adequate legal framework and monitoring /supervision can ensure dispensation of justice through Village Court.

### **1.8 Rationale of the study**

Bangladesh has a long traditional of rural local self-government starting from ancient time. During the Gupta period there were village councils which dispensed with functioning relating to village administration. British colonial ruler established local government body for the purpose of maintaining law and order in the rural areas, which is remaining as Union Parishad with a long list of responsibilities. Bangladesh is a country of villages. Nearly 80% of population lives in thousands of villages. So, development of Bangladesh in any sense means the improvement of the quality of life and environment of the village people. Union Parishad is only institution, which consists of directly elected people's representatives. But many of socio-political-economic problems make it weak. The prospects and remedies towards Village Courts should be identified. Already government with the assistance of UNDP has taken initiatives for strengthening VC. For this reason more study on VC is rationale as a demand of time.

## **1.9 Review of literature**

Bangladesh has a long and eventful tradition of village courts system. The structure and functions of village courts have been evolved in consonance with socio-economic and political transformation of the country. The government of Bangladesh evolved various laws, ordinances, and rules relating to the village courts system of the country. Besides these various laws, ordinances, and rules many researchers and scholars of Bangladesh and the west have dealt with the working of the state-led formal courts and non-state informal courts. Again some international organizations like UNDP, World Bank and DFID have developed different models in dispensing justice. Justice dispensation process is interlinked with various issues like the justice seeking behavior of the community, power structure of the rural society, capacity, competency, strengths and weakness of the justice dispensing organs and the people involved with the whole process. I will try to add here some important and relevant literatures of Village courts systems of Bangladesh.

DFID Briefing (2004. p.2) has defined the 'Salish' in Bangladesh as a means of dealing with disputes within the community and generally take the form of public event in which civil disputes are resolved through arbitration and/or mediation, by people with some standing in the community. It has also classified this 'Salish' into three categories:

- a. Traditionally administered by village or religious leaders,
- b. Administered by local government bodies
- c. A modified form introduced and overseen by the NGOs to make the traditional form fairer, such as by reducing gender discrimination.

Mahmud, A. (1987, p. 4) mentioned that the 'Salish' is a lingering legacy of the fast disappearing feudal system in rural Bangladesh.

A study of UNDP (2002, p.91) "pressed the view that about two- thirds of disputes do not enter the formal court process; instead, they are either settled at the local level, through informal settlement by local leaders or a village court or remain unsettled. Local dispute resolution mechanisms cover both civil and criminal cases of varying- degree, and no formal study of this system of adjudication has

been undertaken to date and UP members usually have strong links to the communities they represent, community members also prefer to seek help from them. During their study, they observed that all 49 respondents, selected randomly from the various UP areas, knew the existence of village courts. That indicated a high level of awareness among villagers of the village courts. They have also found that regarding choice of institution, the Village Court fared better than the police or formal courts of justice.

The US Country study on Bangladesh (2005) stated that once cases leave the Village Courts, they become expensive affairs that may last for years, and few citizens have the financial resources to fund a lengthy court battle.

Jahan, F (2005, p.9) expressed that, there are four different structures of justice available to the South Asian women, who become the victims of domestic violence. These are: i) formal legal courts that follow the English Common Law system, ii) traditional village based dispute resolution conference without any state control, iii) modified NGO sponsored dispute resolution conference with indirect state control and iv) *Lok Adalat*, a government sponsored informal conference. Braithwaite (1989, 2002) was of the view that the three of them (i.e. traditional 'Shalish,' an NGO-sponsored mediation and the *Lok Adalat*) are informal, community-based, face-to-face mediation. Jahan (2005), expressed that a different set of three (formal courts, *Lok Adalat* and NGO-sponsored mediations) are committed to equal rights.

Mitra and Tata Institute of Social Sciences (2002) mentioned that one of the significant problems of Indian judiciary is the high number of backlogged and pending cases. To overcome this problem, a statutory body, The *Lok Adalat (The Peoples court)* was established under the Legal Services Authorities Act, 1987. The objective of *Lok Adalat* was to provide free and competent legal services to the weaker sections of the society. It ensures that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalats to secure that the operation of the legal system promotes justice on the basis of equal opportunities. The legal aid committees or boards of the respective states organize Lok Adalats. Its resolution is considered similar to the decree of a civil court or any other tribunals. Local retired or working judges, lawyers, teachers and other members of a civil society, organize Lok Adalats. These people become members of the legal aid committees or boards of their respective states and resolve cases as mandated by the Government. Besides, the family *Lok Adalat* was established in 1996 and it deals with all sorts of family disputes including violence (to certain extent). This *Lok Adalat* provides an informal

environment and victims are allowed to speak first. Victims may say whatever they want to say. and a resolution is reached after mutual negotiations among all the members, Lok Adalat provides speed~ justice to women in need in an informal setting, However, *Lok Adalat* in many instances has also become a speedy way to get a divorce. Consequently, many victims do not feel satisfied with *Lok Adalat*.

Arafunnesa (1988, p. 27) has studied that the average expense of a case in the court of a thana magistrate was estimated to be a minimum of taka 16,511/- while the maximum was taka 1, 76,000/-. The similar view was also expressed by Ahmed (1993, pp-267-272). 1991 cited in Quader (1995). The village Panchayet settled disputes that did not come under the jurisdiction of professional and trade groups or castes.

The term, *Panchayet* implies an assembly of five or more persons. The term was in vogue in Bengal, as in the rest of northern India, since time immemorial. During the ancient period, this village assembly or *Panchayet*, which was either nominated by the king\_or elected by the people of a village, was left undisturbed in the overall management of the village. The composition of the *Panchayet* was such that they represented different classes and castes. Kautilya's *Arthrashtasatras* mentioned the *gram-viddhas* (village elders) who were the esteemed members of the village assembly and whose duty was to assist the government officials in deciding petty disputes in the villages (Banglapedia, 2006).

The *Panchayet* system in Dhaka has been in existence, particularly among its Muslim population, since the beginning of the Mughal period, and has continued until the advent of the 20<sup>th</sup> century. A first attempt at reducing the power of the *Panchayet* occurred in 1793. However, following the revolt of 1857, a wave of instability led to the adoption of the Bengal *Chowkidari Act of 1870*, which revived the traditional *Panchayet* system. This was followed by the *Local Self-Government Act 1885*, a landmark in the history of self-government in rural Bengal. It provided for a three tier system of local government for rural areas:

- (a) District Board, for districts
- (b) Local Boards for subdivisions and
- (c) Union Committees for village groups.



The Village Self-government Act of 1919 established a two-tier system comprising a district board and a union board. This system continued until Ayub Khan introduced the *Basic Democracy Act* of 1959. This Act set up

- a union council for every union comprising a number of villages.
- thana council for every thana comprising a few unions,
- a district council for every district and
- a divisional council for every division.

Its members, known as Basic Democrats, elected the chairman of the union council indirectly.

In 1972, the name of the union council was changed to *Union Panchayet*, which was again changed to *Union Parishad* in 1973. The system provided for a Chairman and nine members- three from each ward, all of who were to be elected. Accordingly, the first union parishad election was held in 1973. The *Local Government Ordinance* of 1976 and a subsequent amendment provided for representation of two women and *two peasant* members to be nominated by the Sub-Divisional Officer (SDO). The *Local Government (Union Parishad) Ordinance of 1983* and the *Local Government (Union Parishad) Act of 1993* (as amended) brought about more changes with regard to both composition and functions. Major changes also occurred in other tiers of the local government via a number of acts and ordinances (UNDP, 2002, pp-93-94).

The present village Courts of Bangladesh have been established by the village Court *Ordinance*, 1976 (Ordinance No. I-XI of 1976). Which was published in the Bangladesh gazette, Extra, ordinary dated 20-10- 76 (p-2993). The Ordinance has come into force from the first day of November 1976 (Article-1). This ordinance has repealed by the Village court Act, 2006, now in Bangladesh it is into force regarding village courts.

Section 5(l) of the Village Court Ordinance has mentioned that a Village court shall consist of a chairman and two members to be nominated in the prescribed manner, by each party to the dispute, provided that one of the two members to be nominated by each party shall be a member of the union parishad concerned.

According to the Section 5(11) of the ordinance, the chairman of the union parishad shall be the chairman of the Village Court, but where he is, for any reason, unable to act as chairman or his

impartiality is challenged by any party to the dispute, any member of the Union Parishad, appointed in the prescribed manner shall be the chairman of the Village Court. The appointment of the new chairman of the Village Court is done by the Upazilla Nirbahi Officer. Of course, before that, the chairman in question or any parties shall make petition to the UNO (Rule 12 of the Village Court Rules 1976).

Section 5(111), mentions that if either party to the dispute consists of more than one person, the chairman shall call upon the persons constituting that party to nominate the two members on their behalf, and if they fail so to nominate, shall authorize anyone of such persons to do so, and thereupon the persons so authorized shall alone have the right to nominate such members.

Section 5(IV). says that if any party to the dispute does not find any members of the Union parishad to be impartial, he may seek the permission of the chairman to nominate any other person to be a member of the court in place of the member of the Union parishad; and if the chairman is satisfied that there are good grounds for giving such permission, he may permit the party to do so.

Section 5 (V) mentions that where the members required under this section to be nominated, are not nominated within the prescribed time. the Village Court shall, without such members, be deemed to have been validly constituted for the purpose of this Ordinance, and trial shall proceed accordingly.

Generally a Village Court shall be constituted and shall have the jurisdiction to try a case when the parties to the dispute ordinarily reside within the limits of the union in which the offence has been committed or the cause of action has arisen of Section 6 (1).

According to Section 6(11), where one of the parties to a dispute ordinarily resides, and the offence has been committed or the cause of action has arisen, within the jurisdiction of one union, and the other party ordinarily resides within the jurisdiction of another union, then a Village Court be constituted in the union in which the offence has been committed, or as the case may be, the cause of action has arisen, but each party shall have the right to nominate, if it so chooses, its representatives from its own union.

### **Basic Legal Framework of Village Courts**

According to the Constitution of Bangladesh, one of the fundamental aims of the State is to realize a society of rule of law, fundamental human rights, equality and justice. With this aim after the

Independence of Bangladesh, it established Village Courts in the rural areas of the country by enacting the Village Courts Ordinance, 1976 and framing the Village Courts Rules, 1976 to ensure access to justice for the rural poor and marginalized people. The aim of the Village Court was envisaged to settle the local disputes, both civil and criminal, locally, outside of the hierarchy of the judiciary. The idea was to relieve the disputant parties of the cumbersome procedure of litigation under the judiciary to save time and cost, and thus to facilitate better access to justice. At the same time it was sincerely believed that the innumerable cases of similar denomination and gravity which are to be settled by the Village Court, and many of which would have otherwise gone to the regular courts, would substantially ease the pressure on the judiciary.

The Village Courts Ordinance was a substantive law embodying the composition, function and jurisdiction of the Village Courts where the rules are procedural law explaining the procedure of functionalities and recording of the documents. The Village Courts Ordinance was in force till its replacement by the Village Courts Act, 2006. But the Village Courts Rules are still in force. As such the Village Courts of Bangladesh are established and adjudicating disputes mentioned in the Schedule (Part I on criminal cases and Part II on civil suits) within the purview of the Village Courts Act, 2006 and the Village Courts Rules, 1976 and maintain records of judicial procedure according to the prescribed forms annexed with the Village Courts Rules, 1976. However, the Village Courts Act, 2006 has enhanced pecuniary jurisdiction up to Taka twenty five thousand of the Village Courts than that of the Village Courts Ordinance.

### **Organization of the Village Court**

The Court is constituted upon a written application to the Chairman of the Union Parishad against the crimes like: unlawful assembly is to commit an offence, crime against animal or cattle etc. mentioned in Part I or plaint against the offences against breach of contract, recovery of moveable property, damage to property etc. as mentioned in Part II of the schedule. The applicant has to pay Taka 2 for a criminal case and Taka 4 for a civil case as fee.

## **AVCP (Activating village courts project) for better performance of the village courts**

Since my present study is about two union parishads of Katiadi upazila one has chosen from ‘Activating village courts project’ area and another from the outside of project area so, I think it should be include some idea about AVCP in the literature.

In Bangladesh the formal justice system is under tremendous pressure, huge caseloads and vastly overstretched human resources mean that the backlog of cases at present stands at nearly half a million. For many of the country’s poor – particularly rural people and those from vulnerable groups – this situation is compounded by prohibitive costs of legal proceedings and a lack of knowledge that severely restricts their access to formal justice mechanisms. The lack of access to justice is a major dimension of human poverty. In the absence of access to justice, people are unable to have their voices heard, are unable to exercise their rights, to challenge discrimination or hold decision-makers accountable. When functioning justice mechanisms are available and accessible to people, they can help spur and consolidate economic growth and can contribute to creating a safe, secure and reliable environment that positively impacts other development. Against this backdrop, the Local Government Division (LGD), the Ministry of Local Government, Rural Development and Cooperatives has initiated the ‘Activating Village Courts in Bangladesh’ project with the partnership of UNDP and European Union (EU). The project seeks to strengthen local justice system in 500 Union Parishads (UPs) through the establishment and activation of village courts, and in doing so, improve access to justice for disadvantaged and marginalized groups and enhance human rights knowledge and protection in Bangladesh. Looking at practical necessities, there is no alternative but to strengthen local government system. This would facilitate in consolidating democracy and promoting good governance. Keeping this context in mind, this project concentrates on identifying legal and practical constraints that adversely affect UPs in their effective functioning. It is hoped that the project’s outcome will enable us to discern major barriers pertaining to UPs effective functioning of village courts activities and recommending measures to overcoming them.

The project aims at strengthening local justice system in 500 Union Parishad in 77 upazila through village court it intends to improve access to justice for disadvantaged and marginalized groups and enhance human right systems and process in Bangladesh. It is often said that Village Courts are not functioning effectively. I would like to find out how far this project will be effective to ensure justice for the rural people. In this paper I will try to draw a picture of existing systems and what are the innovative initiatives of proposed systems in addition. The main objective of this paper is to identify

legal and practical constraints to effective functioning of the Village Courts. In accordance with the findings, I will try to provide rational, effective and practical recommendations to remove those constraints to make Village Courts more capable and vibrant.

### **Main Focus of the Activating Village Courts Project**

Working in Village Courts in 500 selected UPs in 77 Upazilas throughout Bangladesh, the project is focused around four pillars:

- **Increase Access to Justice:** to empower women, the poor and disadvantaged groups to seek remedies for injustices, and to enable justice institutions to be responsive to claims;
- **Promote and Protect Human Rights:** through viable local justice mechanisms especially for women, poor and vulnerable groups of people.
- **Engaging the Community:** to empower citizens to resolve their disputes at the local level in a quick, cheap and transparent ways
- **Strengthening Local Government Institutions:** to be more responsive to local needs and to provide legal services through well-functioning Village Courts.

### **Impact of the Project**

The selection of 500 UPs through broad consensus was a significant achievement for the project, reflecting and consolidating the increasing desire by many stakeholders to see Village Courts become fully functional. To date, 236 of these are now fully functional, providing accessible justice options to the rural population in their Union Parishad. By building the skills and capacity of a range of people involved in rural justice, from UP members and local representatives, to village police, to Village Court judges and staff, the project is helping to reduce the burden of cases at local police stations and is relieving some of the pressure on the higher justice system. It is also providing local people with more realistic justice options. Through advocacy and outreach activities, the project is increasing awareness among communities of the local justice system, the promotion of basic human rights, and the power they have to resolve justice disputes which are securing sustainable changes for the long term. And the project's approach is also helping to strengthen communities themselves, with the skills and training imparted to local representatives helping local government institutions and having a flow-on effect into other vital services, and the alternative dispute resolution methods employed by the Courts recording positive impacts on communities themselves by drawing communities together to find practical local solutions to local level disputes that fall under village court jurisdiction.

## Background of the Project

Ensuring access to justice is the main prerequisite of good governance. An accountable and efficient justice sector promotes the rule of law and enhances human rights; contributes to the rise of public trust and confidence in justice system which strengthens good governance. It is revealed by research and media reports that the formal justice sector is in tremendous pressure with much workload, inadequate number of officials and staffs to dispose the cases. As per a recent Law Commission report<sup>1</sup> the total number of pending cases in different Courts of Bangladesh was 19,13,633 until 1 January, 2010 and in 2009 a number of 7,19,770 cases were settled following the formal procedure. Examining data from the Courts of Dhaka and Gazipur districts the report also mentioned that the rate of settling civil cases by means of alternative means was 0% to 2.5% of the total cases filed. The Law Commission in this report asserted its concern over this large number of pending cases and urged to take immediate steps for Alternative Dispute Resolution (ADR). Barkat and Roy (2004) show the distribution of pending litigations in different courts of the country as on December, 2000. It is to note that this study shows the number of cases pending in the village courts in Bangladesh. The findings of the authors have been presented in the table below:

**Table 2: Distribution of litigation pending for disposal as on December, 2000**

Types of Courts	No of total litigation
High Court Division	141,766
District Judge Court	402,488
Session Judge Court	73,265
Magistrate Courts	407,036
Revenue Courts	305,664
Certificate Courts	414,912
Village Courts	67,065
Total:	1,812,196

*Source: Barkat and Roy (2004) from Concern Authorities<sup>2</sup>.*

Some recent news published in different electronic and print media, nearly one and a half million cases are pending with the lower courts across the country and hundreds of new cases are being added to this number every day. Although the exact number of cases varies among reports, the number is not fewer than 1.5 million (BSS, June 8, 2010). Quoting the backlog of pending cases as one of the most vexed problems facing the country's judiciary, Halim (2010) depicts the scenario of this overburden based on a 2008 Supreme Court Report.

**Table 3: Total number of pending cases in the country (2004-2008)**

<b>Year</b>	<b>Total pending cases</b>
2004	764,017
2005	824,371
2006	921,509
2007	1,378,078
2008	1,826,682

*Source: Halim (2010)*

Halim (2010) shows that only in a span of four years the number of pending cases in the country grew almost three times. The credibility of the judiciary is at stake due to the mounting number of pending cases, delays in disposal and high cost of obtaining justice. As of 2008, almost two million cases were pending in the courts throughout the country. Cases drag for decades. The backlog and delays deny justice to litigants. Delay in the disposal of cases defeat the every purpose for which the people go to courts for redress. It gives rise to the question whether or not the litigants can seek alternative dispute resolution. Many countries, both developed and developing, including neighboring countries like India and Pakistan, got remarkable results out of alternative dispute resolution (ADR).

## **Review of Legal Framework**

The project reviews the existing legal framework of Village Courts in depth and submits the analytical and pragmatic recommendations to government for ensuring functional and effective village courts. (AVCP Survey Report).

### **Capacity Development:**

It supports to enhance the capacity of the local representatives (especially UPs), village police and staff of village courts, judges through training, workshops, etc at national and international level.

### **Advocacy & Communication:**

It conducts a comprehensive awareness program in community at local and national level on legal rights i.e. services of village courts with rights based approach. Using all the potential communication tools, the advocacy and communication activities are being carried out to sensitize all the actors in a bid to activating the Village Courts for ensuring the justice for the marginalized.

## **Build up awareness through the Project**

The Project organized several awareness workshops titled "Strengthening sensitization and involvement of the stakeholders in activating Village Courts" at national, divisional, district, Upazila and union level. The project arranged these workshops aiming to involve the policy makers, government officials, NGOs, lawyers, civil society, police, community and other stakeholders with the process of implementing the project activities through sensitizing them about the potentials in activating the village courts. The policy makers, government high officials, representatives from UN and donor agencies, elected local government representatives i.e. UP Chairmen from various unions, judicial officials, leading civil society members; NGOs, media etc. attended these workshops.

### **Monitoring and Evaluation**

In the light of revised logical framework, Project Monitoring and Evaluation framework including tools and technique has been developed and being functionalized. Following the M&E plan, project monitoring activities are being carried out. Accordingly, both quantitative and qualitative techniques including interviews, FGD, Key informant interviews, document review, observation, and case studies conducted to capture detail information along with regular field visit. At the end of each visit, monitoring findings are being shared with NGOs through a debriefing session. In strengthening monitoring process and activities in emanating best practices of local government institutions



especially UP in perspectives of running Village Courts effectively, the project supports to LGD, MoLGRD&C through initiating comprehensive interventions.

### **Village Court materials & Knowledge Products**

The project brought out village courts booklet, project brochure, 10 types of sticker, posters, village court location map, VC process pocket book, festoons, Baseline Survey Report on Village Courts in Bangladesh, flip charts project pad, file, folders, scrap book, project pen, desk calendar, new year greetings card, yearly planner, pocket book, leaflets, booklet, VC process card etc. It also prepared the billboards & signboards with the messages of VCs and installed at 500 selected unions and billboards at 17 districts and 56 Upazilas of six divisions (Dhaka, Rangpur, Khulna, Chittagong, Sylhet, Barisal). The project is also preparing mini-citizen charter board, information board for all project UPs for having wider dissemination of information regarding village courts. (Source: AVCP News Letter)

### **Project website developed**

The project developed its own website which is being regularly updated with the progresses of the project activities. It contains the necessary information on projects and ongoing activities, which already attained much attention of the stakeholders and other concerns.

### **Achievements of the Activating Village Courts Project**

- The project provides technical and financial support to building the institutional capacity of UPs through tailored trainings, installation of *ejlas* (court benches), provision of Village Courts forms and formats for efficient case management together with supporting staff to reactive village courts in target areas.
- As of April 2012, a total of 15,760 cases were registered in Village Courts and, of these, 10,765 have been resolved of which 7,372 decisions have been implemented. In addition, 906 cases have been referred to Village Courts by district courts. This indicates a positive link in reducing case backlogs in the upper courts. Of the resolved cases, so far Taka 28 Crore has been paid as compensation and passed on to the aggrieved parties.
- Out of total registered cases, 4,802 cases -- almost one-third of the total, were filed by the women to Village Courts for remedy and currently women representation in the village court panel is 7%. (source: News Letter of AVCP)

## **Chapter-2: Evolution of village court**

### **2.1 Evolution of village court (from a historical perspective)**

Men are social being. They live in the society together, share all their pains and pleasures to each other. Based on all else's cooperation this society is formed. It is taken for granted that people living in the village are much more intimate to each other than their urban counterparts. As the degree of intimacy is high here, the number of interactions is also high. Interactions sometimes create chaos, conflicts, undesired disputes etc. Such disputes could take place between two neighbors, individuals of the same village, individuals of two different villages and even between members of the same family. Disputes sometimes lead to conflicts, riots and consequently bring in huge man, money and resources losses. Many studies have shown how a tiny dispute between individuals or families led both of them in the process of Pauperization. Nonetheless, dissolving such disputes at the beginning in the locality could help them avoid harassments and losses. The present legal and judicial system of Bangladesh owes its origin mainly to two hundred years' British rule in the Indian sub-continent although some elements of it are remnants of Pre-British period tracing back to Hindu and Muslim administration. Before the advent of the British in the Indo-Pak sub-continent, there was the existence of an old local government institution, the Village Panchayat. The term "panchayet" implies an assembly of five or more persons (Banglapedia: Panchayat System).

During the ancient period, this village assembly or panchayet, which was either nominated by the king or elected by the people of a village, was left undisturbed in the overall management of the administration of the village. The composition of the panchayets was such that they represented different classes and castes. One of the main functions of the panchayat was to perform petty judicial cases and settle various disputes among the villagers. At the initial stage of British rule, the prevailing pattern of rural administration of Bengal was retained. No judicial responsibility to the local bodies was entrusted (Quader, 1995: 1). After promulgation of the Bengal Village Self-Government Act 1919, "Union Board" was vested with judicial responsibility. It was in this institutional vacuum that the British colonial rulers initiated a move to set up village based courts and benches under the Bengal Village Self-Government Act of 1919 (Banglapedia: 2006). These courts and benches had responsibility to deal with petty offences and disputes at the village levels under the overall supervision of the elected local functionaries (chairmen) of the village based local bodies, i.e., the union boards, formed under the same Act. In 1961, the government of Pakistan promulgated Conciliation the Conciliation Courts Ordinance, under which the Courts were also made to deal with minor offences and civil cases. In 1976, the government of Bangladesh constituted

village courts in all the unions to settle minor criminal and civil disputes. The main objective of the village courts was not to determine right and wrong and punish the wrongdoers but to find an amicable settlement of the disputes. Unfortunately however, lack of clear ideas, corrupt practices, non-cooperation among the local government functionaries and the lack of adequate powers in the hands of the local bodies continued to hinder the working of the village courts and benches since their inception (Banglapedia: 2006).

During Pakistan period under the Basic Democracy Order of 1959 local government bodies were set up at four tiers viz. Union Council at Union level, Thana Council at Thana level, District Council at District level and Divisional Council at Divisional level. On average a Union comprised an area with 10,000 inhabitants and the Union Council was constituted with 10 to 15 members, Two third of the members were elected by voters and one third was nominated by the government. The system of nomination was abolished after the introduction of the constitution. The members used to elect a chairman and one vice chairman among them. In addition to the maintenance of law and order of their area, the Union Council was given 37 functions among which agriculture development, water supply, education, communications, and social welfare were included. The Union Council was also given the authority to set up conciliation court and the members were given judicial power under the Muslim Family and Marriage Ordinance of 1961. Under the Basic Democracies Ordinance, 1959 the Union Council was authorized to impose taxes on property and other sources to build its own fund in addition to existing Chowkidari fund. Government grant was given for rural works programme and for constitution of Union Parishad office. The Union Board with partial modifications at different times remained under operation till the introduction of the Basic Democratic Order of 1959, which replaced the name of Union Board by Union Council (Quader, 1995). However, this Order did not provide Union Councils with any judicial power. Later, the President of Pakistan promulgated the “Conciliation Courts Ordinance” in 1961 which empowered the Union Council to perform petty type of civil and criminal suits (Quader, 1995: 1). The Union Council continued its judicial functions until the liberation of Bangladesh in 1971. After the independence in December 1971 the President’s Order 7 issued in 1972 by the government of Bangladesh dissolved all the existing local government bodies and appointed certain committees for performing the functions of these defunct bodies. Moreover, the name of the Union Council was changed to Union Panchayet (later renamed Union Parishad) (Banglapedia).

In 1976 the Government of Bangladesh promulgated the Local Government Ordinance. Through this Ordinance the Union Parishad was entrusted with forty functions including limited judicial duties.

The Village Court Ordinance provided each Union with basic authority to try cases by the village courts. Accordingly, the village courts were set to deal with petty cases. The objectives of establishing the village courts were to settle disputes, both criminal and civil, to which villagers are the parties. It is not very easy on their part to move to the city courts to run litigation. So, if there is an arrangement for settling the disputes at the village level, the villagers get rid of lot of troubles and extra expenses. Village courts can settle disputes quickly and with less expense. This in turn, would be helpful for maintaining a peaceful social environment in the rural areas (GOB, 1977: 80). The decade of eighties was characterized by administrative and judicial decentralization. Magistrate Courts and Munsif Courts were shifted from districts headquarters to thana (Upazila headquarters). It was expected that decentralization of judiciary would enable village people to settle disputes at the thana level at much less cost and time than they had to incur at the district level courts. However, after the withdrawal of Magistrate Courts and Munsif Courts from Upazilas in the early 1990s, legal services and judiciary in the rural areas seemed to face crisis (Quader, 1995). Being district courts as the nearest formal courts for the villagers, the judiciary has become very expensive and it involves lengthy procedure too (Ahmed, 1993: 267-272). At this backdrop Village Court can play significant role at the village level. Average expense of a case in the court of a thana magistrate was estimated to be a minimum of Tk. 16,511 while the maximum was Tk. 176000 (Arafunnesa, 1988: 27). As these figures were estimated more than two decades back, the current expense in the absence of Upazila courts would be much higher. Such expense is beyond the capacity of the villagepeople. Sometime corrupt practices by people concerned exacerbate the problem. It creates burden on the rural poor and vulnerable groups who cannot afford the expenses of cases and do not have clear understanding of how to get access to justice in the formal courts on issues which could easily be resolved at the local level by the village courts. Therefore, the importance of village court is remarkable. The underlined principle behind the village court was that the common men would get the benefit of justice through informal and inexpensive court within short period of time. The latest legal framework “The Village Courts Act, 2006” upgraded from the Village Courts Ordinance of 1976 is in place to address the access to justice issue for the village poor, marginalized, women, children and the vulnerable groups and thus reducing the pressure from the formal courts, ensuring rule of law and eventually establish good governance. The village courts are easy to access with minimal or no cost and do not have the stigma of the formal courts as UP chairmen and other members are not only known but also close to them. Village courts have other major positive and differentiating traits like its reconciliatory power, transparency and availability of evidence and proximity of place of occurrence.

## **Chapter-3: Village court in practice**

Village courts of Bangladesh are state supported rural justice system. As a state supported rural justice system Village courts have the specific body of laws, rules and procedures to follow. The laws emanate from the legislature. In the recent years, Rural Bangladesh has also experienced the NGO-organized modern Shalish or ADR (alternative dispute resolution) systems. All these forums come under the non-state rural justice systems (Biswas. Z. I. 2009). But Shalish is very informal but village court is a formal court with informal characteristics.

### **3.1 Characteristics of Village Courts**

- Village courts of Bangladesh established by The Village Court Act, 2006 (previously The Village Court Ordinance 1976).
- Village Courts located in Union Parishad Complex.
- Both Civil and Criminal cases are tried by the VC
- VC has limited jurisdiction of fine up to 25,000 Taka.
- VC comprises of five members UP chairman, two UP members, two persons selected from both parties.
- Magistrate 1<sup>st</sup> class/ Assistant Judge is appellate authority

This court is legally required to follow informal procedure of trial or dispute settlement, meaning thereby that the application of Code of Civil Procedure, Code of Criminal Procedure and Evidence Act has been barred. It has barred the appointment of lawyers. However, decisions of these courts are as binding as those of any other formal courts of the country.

### **3.2 Functions and Authority of Village Courts**

**Functions:** Village Courts function under the institutional control of the Union Parishad which is the lowest tier local government's administrative body constituted through direct voting of the people of the Union. A village court is a statutory court composed of the chairman of the union parishad and four representatives – two from each party, one of them being a member of the parishad (section 5(1)). Ordinarily, the chairman of the union parishad acts as the chairman of the court, but where he is, for any reason, unable to act or his impartiality is questioned by any party to the dispute, any member of the parishad can act as chairman (section 5(2)). The only adjudication option open for village courts is to order compensation of an amount not exceeding 25,000 taka, payable to an aggrieved person (section 7(1)). If the decision of a village court is unanimous or by a majority of 4:1

(or 3:1 if the decision is reached in the presence of only four members of the court), the decision shall be binding on the parties (section 8(1)). But, if the decision is by a majority of 3:2, any party to the dispute may, within thirty days of the decision, appeal to any judicial magistrate of the first class or assistant judge having jurisdiction over the case .

**Authority and Jurisdiction:** According to Part-1 of the Village Court Act, 2006 schedule, a Village Court can try around thirty types of criminal offences like Unlawful assembly, Riot, Voluntarily causing of hurt , Committing mischief , Criminal trespass , Committing an affray, Voluntarily causing hurt on provocation, Wrongful restraints, Wrongful confinement, Intentional insult with intent to provoke breach of the peace, Criminal intimidation, Word, gesture or act intended to insult the modesty of a woman, Misconduct in public by a drunken person, Theft in dwelling house, etc, Criminal breach of trust, Cheating, Cheating and dishonestly inducing delivery of property, Mischief causing damage to the amount of twenty five thousand taka, Mischief by killing or maiming animal of the value of twenty five thousand taka, Cattle trespass related offences such as forcibly opposing the seizure of cattle or rescuing the same, Penalty for damage caused to land or crops or public roads by pigs , Failure of the pound-keeper to perform duties under the Cattle Trespass Act 1871 etc.

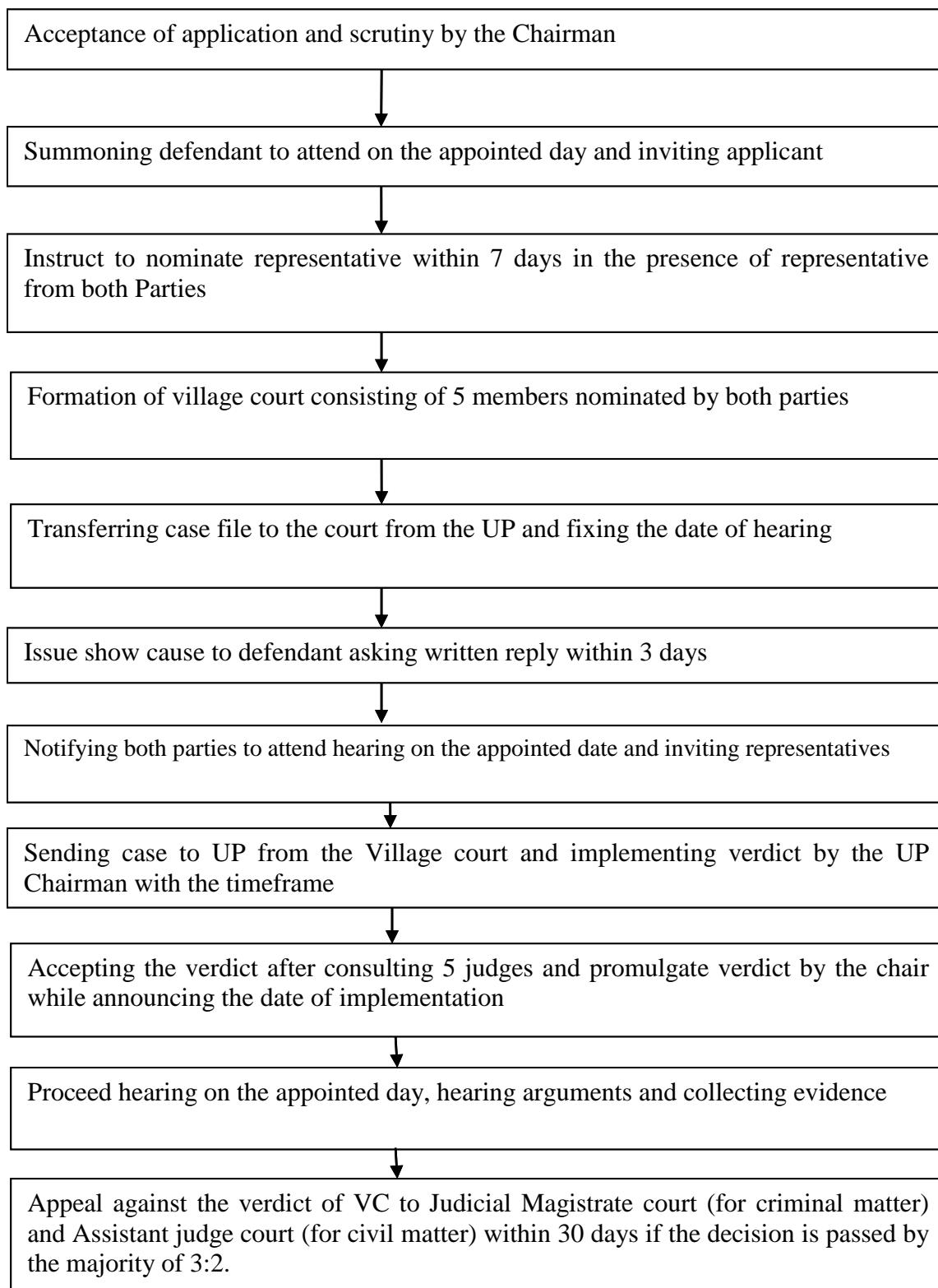
Part II of the Schedule provides for a list of the civil suits, which a Village Court can deal with.

Followings are the list of suits:

1. Recovery of money due on contracts, receipts or other documents.
2. Recovery of movable property, or for the value thereof.
3. Recovery of possession of immovable property within one year of dispossession.
4. Compensation for wrongfully taking or damaging movable property.
5. Damages by cattle trespass.
6. Recovery of wages and compensation payable to an agricultural laborer.

This court is legally required to follow informal procedure of trial or dispute settlement, meaning thereby that the application of Code of Civil Procedure, Code of Criminal Procedure and Evidence Act has been barred. It has barred the appointment of lawyers. However, decisions of these courts are as binding as those of any other formal courts of the country. According to the Village Courts Act 2006, there is a process of trial to be followed. It starts with the acceptance of the application while ends up with the implementation of the verdict as shown in the flowchart.(Belayet-2012)

### 3.3 Village Court flowchart



**Figure-1: Village court Flowchart**

### **3.4 Composition of the Village Court**

On receipt of the application the Chairman of the Union Parishad shall constitute the Village Court. The Village court will be composed of a Chairman and four members to be nominated, by each of the parties to the dispute. One of the two members to be nominated by each party shall be a member of the Union Parishad concerned. The Chairman of the Union Parishad will be the Chairman of the Village Court. He will invite the disputant parties to nominate their representatives within 7 days (Rule 10). After receipt the names of the nominees of the disputant parties he will record the matter in Form I of the registrar [Rule 7(1)]. The Chairman of the Union Parishad shall be the Chairman of the Village Court, but where he is, for any reason, unable to act as Chairman or his impartiality is challenged by any party to the dispute, and then any member of the Union Parishad other than those nominated by the disputant parties shall be the Chairman of the Court. If either party to the dispute consists of more than one person the Chairman shall call upon the persons constituting that party to nominate the two members on their behalf, and if they fail so to nominate, shall authorize any of such person to do so, and there upon the persons so authorized shall alone have the right to nominate such members. If any party to the dispute does not find any member of the Union Parishad to be impartial, he may seek the permission of the Chairman to nominate any other person to be a member of the Court in place of the member of the Union Parishad. Where members required under this section to be nominated are not nominated within the prescribed time, the Village Court shall without such members, be deemed to have been validly constituted and trial shall proceed accordingly (Sec 5.)

If the application is not accepted by the Chairman, he may return the application stating in writing the causes of refusal [Section 4(1)] in such case the aggrieved party may apply to the Court of Assistant Judge to review the matter within 30 days of refusal [Rule 5(1)]. If the Assistant Judge is satisfied with the points in application he may return the application to the Union Parishad Chairman for consideration.

### **3.5 Jurisdiction of the Village Court**

A Village Court shall be constituted and shall have jurisdiction to try a case only when the parties to the dispute ordinarily reside within the limits of the union in which the offence has been committed or the cause of action has arisen. If the disputants are residing in two different Unions, Parishad then the Village Court shall be constituted in the Union, where the Offence has been committed or the



cause of action has been arisen. In that case each party shall have the authority to send their nominated representative to the Village court. (Sec.6)

### **3.6 Issue of Summons**

On registration of the application the UP Chairman will issue summons (Rule 8) to the respondent stating the date and time of his appearance before the Chairman. The issuance of the summons must be recorded in Form 2 for respondent and in Form 3 for witness [Rule 9 (1) (2)].

### **3.7 Decision of the Court and its Review**

If the judgment of the court is made unanimously or (4:1) majority or out of four members appeared 3:1 majority then the decision of the court is binding upon the parties [Sec. 8(1)]. The decision must be signed by the Chairman of the Village Court and be recorded in Form 4 of the Rules (Rule 20). If the decision is made by simple majority i.e., 3:2 then the aggrieved party may appeal to the Court of First Class Magistrate having such jurisdiction in case of criminal matter or to the Court of Assistant Judge having such jurisdiction in case of civil matter within 30 days from the date of decision [Sec. 8 (2) ]. If the Court of Magistrate or Assistant Judge convinced that justice has not been done, he can set aside or modify the decision or can send back the dispute to the Village court for review [Sec. 8 (3)]. If the village Court awards any decree it must be registered in Form 5 of the register [Rules 21 (1)]. When the decision imposes any compensation to any party it also has to be register in Form 5. When the imposed fine is paid, according to the rule 25(2) it must be registered in Form 7. In case of recovery of the imposed fine it must be recorded in Form 6 of the Rules. If the Village Court fails to recover any fine then it can forward with its recommendation to the Magistrate by recording in Form 9 (Rule 30). When the recovery amount is considered as pending revenue to be collected by the UNO then the Chairman of the Village Court refers it to the UNO recording in Form 8 of the register (Rule 29)

### **3.8 Power of the Village Court**

I) The Village Court to award compensation in respect of an offence specified in Part 1 and II of the Schedule and may order the accused to pay compensation of an amount not exceeding twenty five thousand taka. (Sec.7).

ii) The Village Court may penalize up to Taka 500 for contempt of the Court (Sec.11).

iii) Permit the party to be represented through duly authorized agent (Sec.15).

iv) Matter relating to public interest and justice can be referred to the Courts of Magistrate without adjudicating by itself. (Sec.16)

v) It Can recover the compensation by applying the Public Demands Recovery Act, 1913 [Sec.9 (3)].

vi) It can reject application on reasonable ground. (Sec.4)

vii) It can recover fine and deposit in the account of the Union Parishad (Sec.12)

viii) The Village Court has to submit its half-yearly report on adjudicating cases to the Upazila Nirbahi Officer (UNO) and record it in Form 10 of the register.

## Chapter-4: Data Analysis, discussion and Findings

In this chapter it tries to focus on the analysis of collected data and information from primary and secondary sources. In the later part of this chapter it is presented the major findings regarding village courts by analyzing both the primary and secondary data. Moreover, the study was aimed to identify how present village courts meet the people demand and whether village courts effectively work after initiating ‘Activating Village Court Project’ or not.

### 4.1 Main features of two Unions under study

For the purpose of present study two unions has been chosen from Katiadi Upazila under Kishorganj district. The area of this upazila is 219.22 square km, total population of Katiadi upazila is 2, 64,501 and population density is 1207. There are ten unions and 151 villages in this upazila. Among the 10 unions 02 unions are selected for the purpose of study. Masua union has been selected from the AVCP area and Luhajuri union from the outside of AVCP area. Luhajuri union is extremely rural whereas Masua is sub-urban. Moreover, a combination of the rural and sub-urban area may add value and quality of the research. Masua union has relatively good road communication with the Upazila headquarter and district headquarter and also with the Dhaka. Because of its high literacy rate, people of this area are aware, economically well off and more or less conscious about village court. Moreover, ‘Activating Village Court Project’ is acting here under the supervision of Ministry of Local Government, Rural Development & Cooperatives and financed by UNDP and European Union. On the other hand, Luhajuri union is comparatively backward position than Masua union. This union is outside the ‘Activating village Court in Project’. The key features of the study union parishads are reflected in the Table below.

**Table - 4: Key Information of the two unions under study**

<b>Features</b>	<b>Masua Union</b>	<b>Luhajuri Union</b>
Area	19.15 square Km.	16.8 square Km.
Total population	38,457	26,700
Number of Village	15	17
Educational Institution	18	09
Literacy rate	50%	45%
Hat-Bazar	07	05
Land Office	01	01

## 4.2 Functioning of the VC

The VCs have been functioning in both of the Union Parishad under study and the case records and registers have been maintained in both the VCs but in different ways. The preservation of the case records and case registers is not satisfactory outside the AVCP area, because there is many cases entry in the register but each and every case file is not found. Secretary of the UP maintained these, when he asked about the matters he replied that, every case is not recorded properly. They maintained record only important and competitive cases. On the other hand in AVCP area preservation of the case records and case registers is satisfactory because similarity is found between case register and records. They maintained record for every case.

**Table -5: Number of cases lodged in the two VCs**

Masua Union				Luhajuri Union		
Month	Number of cases	Finally settled	Pending	Number of cases	Finally settled	Pending
July'12	12	10	02	01	-	01
August'12	17	14	03	-	-	01
September'12	17	14	03	02	02	01
October'12	16	12	04	-	-	01
November'12	17	13	04	02	02	01
December'12	09	01	08	02	02	01
Total	88	64	24	07	06	01

As it is observed from the above table it is clear that Village courts are active in both the unions but not fully functional outside the project area. UP officials said No. of cases filed in Masua union has dramatically increased in 2012 when government of Bangladesh launched the Activating Village Court Project. The scenario was unchanged in Luhajuri union which was outside the AVCP area. It

is observed during the study that the number of cases increased in AVCP area because they built people awareness about the VC through the field worker of the project.

### 4.3 Different Status of the participants of the study

#### Gender distribution

The gender distribution of the respondents shows that male-female ratio is very different (shown in Figure 3.2). 78.50% of the respondents were male while the remaining 21.5% were female. But in the category of chairmen and elite persons there are no female, they remained only among the petitioners and opponents who are the service seekers of village courts.

**Table-6 Gender distribution**

Male	Percentage	Female	Percentage
22	78.5%	06	21.5%

#### Educational Qualifications

**Table-7: Educational Qualifications**

Name of Degree	Number of participants	Percentage
Below S.S.C.	19	67.8%
S.S.C.	05	17.8%
H.S.C.	02	07.2%
B.A.	02	07.2%

It is mentioned earlier that there are different types of population included in this study. There are two UP chairman of two different Union Parishads, both of the chairman obtained SSC degree. From the 6 elite persons two of them obtained bachelor degree, two of them HSC and rest of two have SSC degree. From the service seekers of the village courts both petitioners and opponents only one has SSC degree rest of them are below SSC. It is clear from the study that the maximum service seekers of the village courts are not very much literate.

#### Occupation

The study was undertaken in the rural areas of Bangladesh and almost half of the respondents were found as the profession of agriculture (farmers). As data reveal, 28.8% of the respondents are involved in business. Although as many as 05 types of occupations were found among the respondents, 14.4% were found house wife, other two are not remarkable in terms of number of

people under each of them. For salaried job the engagement of the respondents is only 7.2%. (Shown in the figure below):

**Table-8: Occupation**

<b>Occupation</b>	<b>Number of participants</b>	<b>Percentage</b>
Housewife	04	14.4%
Business	08	28.8%
Private Service	02	07.2%
Teacher	02	07.2%
Agriculture	12	42.4%

### **Monthly Income**

It is mentioned earlier that the study was undertaken in the rural areas of Bangladesh and almost half of the respondents were found as the profession of agriculture (farmers). Monthly income below 10000 are the maximum number (68% Of the respondents) whereas 32% earned 10000 and above per month. (Shown in the table below)

**Table-9: Monthly Income**

<b>Amount</b>	<b>Number of opinions</b>	<b>Percentage</b>
20000 or above	04	14%
10000 or above	05	18%
5000 or above	10	36%
Below 5000	09	32%

### **4.4 Natures of the disputes lodged in the VC**

Respondents of the study area are reported to be experiencing various types of dispute, which can be broadly divided into civil disputes and criminal offences. Data relating to the types have been presented in Table below. It appears from the table that more than 55% disputes/offences reported that civil offences rest of the offences is criminal in nature. Among the criminal offences, various main types of offences involved were: fight/quarrel, family conflict, violence against women,

physical assault etc. Among the civil cases, property-related disputes mainly involved land occupation, demarcation and selling and purchasing etc.

**Table-10: Nature of the case lodging in the village courts**

Nature of the case	Number of opinions	Percentage
Civil	11	55%
Criminal	09	45%

#### **4.5 Discussion of different indicator for searching research questions**

The study was conducted on four groups of people who are directly or indirectly related to the functioning of the Village Courts. The first groups of people are the petitioners to the Village Courts, the second group are the opponents against whom a case has been lodged in the Village Courts, the third group are the elites of the respective union parishads, fourth group are the chairman of the village courts. All groups of people are taken equally from the two unions, one is outside AVCP and another one is AVCP area. There are some questions in the questionnaire for measuring how far the present village courts meet the people demand. Besides, there are also some observations and discussions with the Union Parishad members and local peoples in this regard. In the light of mentioned sources of information I try to find out result of this research question.

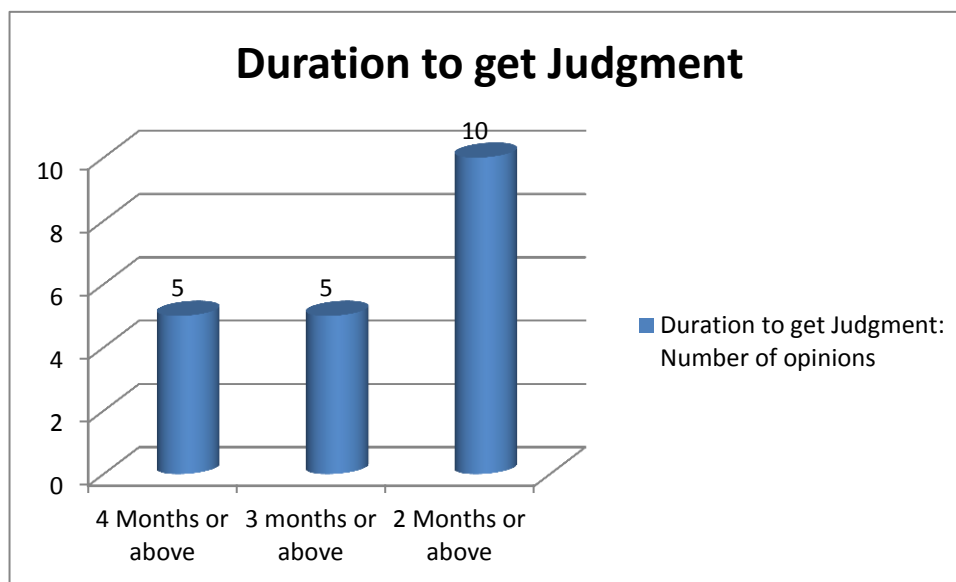
#### **4.6 Disposal of the cases**

**Table-11: Disposal of cases**

Status	Number of opinions	Percentage
Yes	20	100%
No	00	00%

In this study 20 respondents were asked about the disposal of cases lodged in the village courts, among them 10 were petitioners and another 10 were opponents. Five respondents lodged cases before 6 months while another five of them lodged the cases one year back. Ten respondents said that their cases were disposed of within the three months (figure: 01), five took more than three months and rest of the cases took four months or above time. It seems from the study that 50% of the

cases took more than four months which is not with the spirit of the Village Courts Act, 2006. Because preamble of this Act has laid down that this Act was enacted for easy and speedy settlement of the petty disputes. Interestingly 08 respondents out of 10 of the AVCP area said they got their judgment within three months whereas only 02 respondents out of 10 said they got judgment within three months.



**Figure-2: Duration to get Judgment**

#### 4.7 Knowledge about the formation of VC

**Table-12: Knowledge about the formation of VC**

Perception	Number of opinion AVCP Area(total-10)	Number of opinion outside AVCP Area (total-10)
Yes	10	00
No	00	10

Ten out of ten respondents of the AVCP area said that the Village Courts were formed by five, members headed by the chairman and two UP members and two local elites from both sides as members. However all the respondents of outside AVCP area do not know how to form the village



court and their perception about village court is it is like a shalish even they do not know there is a court in the Union parishad. It is observed during the study that in the AVCP area chairmen, members and local elites are trained about the village court process but outside AVCP area they are not trained. All the people of AVCP area are well known about the village court through the 'Uthan Baithak' by the Union field worker of AVCP area. There is no such type of opportunity for the people of outside AVCP area. All the respondents of both areas said they nominated their representative to the village court. But the respondents of AVCP area had prior knowledge regarding this matter on the other hand the respondents of outside AVCP area said they asked to nominate their representative when they already came to the court for trial. In this situation they chose their representative from the present public of the shalish. It was very surprising that 08 UP members out of 12 do not have knowledge about the VC even they do not know there is an Act regarding VC, this was the fact of outside AVCP area.

#### **4.8 Review of judgment by beneficiaries**

The satisfaction level is very high among the respondents of the Village Courts. None of the respondents said that he or she is not satisfied with the judgment of the Village Court. Only five petitioners said they are partly satisfied with the judgments while rest said they are fully satisfied with the judgments. Even where the Village Court had decided in favor of the opponents the petitioner is also partly satisfied because as a part of the judgment, the opponent had to provide him a passage to the main road, from the land owned by the accused. So, the judgment was also a kind of mediation. Only two respondents said that the judgment could not bring full peace between the parties; these are the situations where both the parties were advised to go to the higher courts. In rest of the cases the judgments brought peace among the parties because all the judgments are usually pronounced on the basis of the consents of both the parties. Except the two cases, which were sent to the higher courts for settlement, all the judgments were implemented immediately after the pronouncement of the judgments. All of the respondents said that they did not have any problem to present the witness, before the court because it is within their reach and they did not have to spend the whole working day for this purpose and at the same time they did not face any sorts of harassment which they have to face in the formal courts.

All the respondents mentioned similar type of causes in response to the question why they did not go to any formal court, as were mentioned by the chairmen of the village Courts. They mentioned that the Village Court does not involve any cost, it requires only fees of 2 taka, it requires less time, the

local chairman knows the issues better than the judges or magistrates of the formal courts or at least the Village Court has the sources and capabilities to collect such facts. They also mentioned that as the local chairman involves the local elites or local UP members, so, correct information is easily available to the Village Court. One petitioner has also mentioned that as everybody in Village Court area knows each other. So, it is very difficult for anyone to produce false statement in the Village Court. However some of the respondents said sometimes they need some extra cost for maintaining social courtesy. 100% respondents said they did not get any difficulties to produce witness to the VC.

#### **4.9 Types of judgment**

The most frequent type of judgment of disputes in the VCs is the compromise or mediation. Among the 20 respondents 14 said their case were compromised after mediation among the parties. Two of the respondents said they have been referred to the higher courts because their case was beyond the jurisdiction of VC. Rest of the cases was settled by the return of borrowing money to the petitioners from the opponents.

#### **4.10 Assessment regarding the chairmen of the VC**

**Table-13: Assessment regarding the chairmen of the VC**

<b>Assessment</b>	<b>Number of opinions</b>	<b>Percentage</b>
Good	15	75%
Very Good	05	25%

#### **4.11 Opinion about VCs running through AVCP**

During the study the respondents of AVCP area are asked different types of question about the effectiveness of AVCP for strengthening VCs. All respondents are well known about the project running their area for better performance of VCs. They noticed some changes of VCs performance after initiating AVCP. The mentionable changes are, all the villagers have been aware about VCs and they came to the village courts for settling their disputes and they mentioned it has been possible for initiating AVCP. All respondents said VCs are more effective after initiating project. They also said that people trust was increased on VCs after initiating AVCP. It is reflected clearly from the table below.

**Table-14: Increasing people trust after initiating AVCP**

<b>Is increase people trust after initiating AVCP?</b>	<b>Number of Opinion</b>	<b>Percentage</b>
Yes	14	100%
No	00	00

#### **4.12 Human resource and logistics**

It was observed that, the operational arrangement for the Village Court is inconsistent with its responsibilities. At present in a UP, the chairman, nine members, three female members are supported by ten village police (Gram Police). One UP secretary assists the UP in day to day work. The respondents from the service provider identifies two distinct but interrelated challenges to describe their views on dispensing justice locally and the challenges are – lack of skills and/or abilities and resource deficiencies. Both the UP chairmen have said that, the secretary is responsible for all case filing, budgetary, and recordkeeping duties, which eventually slowed the overall performance of the UP. UP secretary stated that schedule two of the Local Government (Union Parishad) Act, 2009 describes 39 functions of the UPs. He admitted that, the additional judicial tasks compels him to work longer hours which, when combined with his low salary finally demotivates him. There is no specific staff for serving the notice and summons issued by the Village Courts and to do other formalities. Again, there is no budget allocation for running the Village Court and to print necessary forms and registers. Both the UP Chairmen and members stated that, the salary/ honorarium of the chairman and members are too small compared to their responsibility. There is no extra salary or honorarium for the Chairman or the members of the Union Parishad for giving their time and efforts in the Village Courts. About the human resource, all the UP Chairmen, Members and secretaries stated that a court clerk is indispensable to a properly functioning village court. They opined that, for dispensing justice locally, all Village Courts required to employ at least a part-time

court clerk-cum computer operator to assist the village court with administrative, recordkeeping, and other tasks necessary to the smooth functioning of the courts as well as the smooth functioning of UP. In this regard, the UNOs said that lack of resources is not a problem. They can take project and spend money for the required forms, registers and infrastructures. There has no provision to appoint any extra stuff for this purpose without changing the present organogram. He stated that, according to section 54 (C) of the Local Government (Union Parishad) Act 2009, UP can spent money to perform any duty delegated by any law. The research also focused on the adequacy of court facilities and found a tremendous variety among the Village Courts. The project funded Village Court is virtually indistinguishable from our formal courts. Proceedings are conducted in a multipurpose room (usually hall room) with necessary forms and registers, paralegals/ court assistant and with all of the other attributes necessary to a fully functioning court. The court room furnishings consisted of a table located in the center of the room, surrounded by five chairs. On the other hand, outside the project area, Village Court is unrecognizable as courts at all. This court has no court-related resources, operate without clerks or other staff; without appropriate space for litigants and defendants runs without court decorum. In the AVCP area from the project one court assistant and one field worker are appointed to the VCs.

#### **4. 13 Major findings and observations**

According to the Village Courts Act, 2006 Village courts were established with the objective of enabling rural people to resolve their disputes within a short span of time and with a minimum cost. The study was aimed to identify to what extent village court meet the public demand and to what extent it is effective after initiating AVCP for strengthening VC. The respondents of the study mentioned a number of factors which causes as a success factor of VC and also they mentioned some factors which causes as a failure factor in dispensing justice through the VC. Major findings and observations of the study are as follows:

1. The VCs are in operation in both the studied Union and usually it operates in fixed day of the week in AVCP area but in outside AVCP area day is not fixed for operating VC. People of the AVCP area are more aware and more knowledge about the operation of the VC than outside AVCP areas. The given information of the respondents shows that the lack of awareness of the mass people about village court is the major limitation of village court to work actively. Outside the project area, both the service seekers and providers have little or

no knowledge about VC. During the time of the study, it is observed that there was no awareness program or local initiatives at the local or national level to make people aware about village court.

2. Most of disputes came to the VCs are of civil in nature. Property disputes are the highest among the cases received by the VCs. But VC faced problem to settle and took in consideration of all the land disputes lack of VCs jurisdiction. It is also observed that criminal nature cases are settled without documentation.
3. Though the VCs are in operating in both the studied Union Parishads but these courts do not strictly followed the Village Courts Act, 2006. The study has found that in terms of all cases there is no formal nomination of representatives by the concerned parties. But after initiating AVCP, in the AVCP area parties are made formal nomination of their representatives to the court. Outside of the project area the maintenance and preservation of case record and registers were not found to follow by the village court rules. In the AVCP area they maintained it after initiating project.
4. From the study and observation it is clear that the UP Chairman, secretary and UP members have a significant level of education which is favorable for providing justice. The UP officials have the lack of training, lack of the machinery, and more than anything else, for lack of the understanding of what it means to make a full and complete record. The record management of the village courts is woefully poor.
5. The socio-economic condition of service seekers of VCs are not up to the mark. The education level of all the respondents is below SSC, their monthly income is under 5000 taka per month and all are either farmer or house wife. It indicates that villagers who belong better socio-economic condition they do not rely on the VCs.
6. There is no fund allocation for the Village Court outside the project area from Local Government Division or from Upazila Parishad. It was also observed that outside the project area all VC runs without a fulltime court assistant and the UP secretary usually performs this task who thinks that it is beyond their ordinary job descriptions. The members and chairman of a Union Parishad serve in the Village Court as a part of their functions in the Union Parishad. But considering their overall responsibilities as members and chairmen of the Union Parishads, their salary or honorarium is too poor. It was also observed that, the resources and facilities in the project aided courts have positive effect on the quality of justice dispensed. The UP chairmen and members are interested to perform judicial activities

which by law have vested on them but at the same time in the absence of the government sponsored project intervention or NGO initiatives they cannot perform it.

7. There are two elite persons nominated to the village court by the two parties. When they are nominated to the village court they act as a representative of the government because they are nominated according to the Village Court Act but there is no provision or arrangement to give them honourarium. They are not elected like UP chairman and members. For the social courtesy respondents are to pay their communication cost.
8. In AVCP and outside AVCP area there is no strong Monitoring and supervision mechanism. UP chairman don't send the reports and returns to the concerned authority regularly. After the separation of judiciary from the executive in 2007, UNOs and DCs/ District Magistrate have little or no control over the judicial activities of the village court. Judicial magistrates, judges and police are also unaware about the village court and local police regularly entertains cases that fall under the jurisdiction of village court.
9. All the respondents of the study who were either petitioner or opponent of the dispute of the village court they were found satisfied with the judgment of the village court and they also mentioned the decision of village court brought peace between the parties.
10. This study has found that the justice seekers in general prefer the village courts because minimum costs, minimum time requirement for the disposal of the cases in this courts. They also mentioned it is less harassment, better and fair judgment because of the personal knowledge of the persons involved in the village courts.
11. Some suggestions were found from the respondents during the study and these are- jurisdiction of the village courts should be increased, nominated representatives of the village court should have minimum education level, monitoring from the higher authority should be ensured and AVCP project should be long lasting.

## **Chapter- 5: Conclusions and Recommendations**

### **5.1 Conclusions**

The lack of access to justice is a major dimension of human poverty. In the absence of access to justice, people are unable to have their voices heard, are unable to exercise their rights, to challenge discrimination or hold decision-makers accountable. When functioning justice mechanisms are available and accessible to people, they can help spur and consolidate economic growth and can contribute to creating a safe, secure and reliable environment that positively impacts other development. In Bangladesh the formal justice system is under tremendous pressure: huge caseloads and vastly overstretched human resources mean that the backlog of cases at present stands at nearly half a million. For many of the country's poor – particularly rural people and those from vulnerable groups – this situation is compounded by prohibitive costs of legal proceedings and a lack of knowledge that severely restricts their access to formal justice mechanisms (Project Fact Sheet, AVCP). After the independence of Bangladesh the government of Bangladesh introduced the Village court Ordinance now it was replaced by the Village Court Act, 2006 to save the rural people from the hazards of the lengthy judicial process of the formal courts but the government has not given much importance and emphasis for the rural level of justice system which deals with both petty civil and criminal disputes. This study has found that in spite of constraints village courts are performing an effective role not only in maintaining the social peace and tranquility but also contributing in reducing the pressure on the formal courts. It is give us hope that finally government has given emphasis on village courts and introduced AVCP for better performance of the village courts. The study in AVCP area has found that people are very aware about village courts. They are interested to the village courts and also they are very happy with the performance of the village courts. We know project is only for the time being. So, government has to take such type of initiatives so that village courts can perform better for all the time even after ending the project.

### **5.2 Recommendations**

The Village Court Act implies almost all major aspects of an effective rural justice system in rural areas of Bangladesh. A proper implementation of the law could improve the state of 'access' to justice dramatically. But that did not happen, because the mechanism of law is not working effectively. It is time for government to undertake an in-depth study to dig out the problems of the rural justice system and address those problems without delay. During my study I found some

important matters which can make village courts more active and functional and government should be consider these matters for making village courts more effective.

- ✚ The power of village courts should be increased with respect to both jurisdiction and penal provisions. These courts should be allowed to try the cases involving up to 50,000 taka.
- ✚ For making the village courts as strong and powerful institution proper logistic and administrative support should be rendered to it.
- ✚ Awareness program should be taken into consideration for all the people about village courts.
- ✚ UP chairmen, UP members, secretaries and local elites who are very often nominated as a representative of the village courts, government should be taken in consideration training program for them about village courts system.
- ✚ To strengthen the local government, government of Bangladesh has promulgated the Local Government (Union Parishad) Act 2009 and initiated a nationwide program named Local Governance Support Program (LGSP). Village Courts services should be considered comprehensively as a part of services delivered by Ups under the Local Government (Union Parishad) Act 2009 and should be linked with the LGSP.
- ✚ Regular supervision and monitoring should be mandatory by the proper authority.
- ✚ For each village courts a panel of representatives should be selected for a period of five years with the approval of the formal courts. Their selection has to be renewed each year depending on their judicial capacity along with the honesty and integrity.
- ✚ Once in a year legal and procedural training courses have to be arranged for the chairmen, members of the village courts along with the secretaries of the union parishad. The secretaries should be additionally trained up for the record management.
- ✚ The government should take extensive publicity and advocacy program in both print and electronic media for creating awareness among the people about the functions and procedures of the village courts.
- ✚ The government should encourage and support the non-government organizations to take awareness and advocacy program for the village courts all over the country.



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## Appendices

### **Questionnaire-1: For the petitioners of the Village Courts (outside ‘Activating Village Court Project’ area)**

(All information collected in this study will used for the study only and the unanimity of the respondent is ensured)

1. Name:
2. Sex:
3. Village:
4. Union:
5. Upazila:
6. District:
7. Educational Background:
8. Occupation:
9. Monthly Income:
10. What was the nature of the case you lodge in the village court?
11. When did you lodge the case?
12. Did you get judgment of your case?      Yes      No
13. If yes, how many days required for the disposal of the case?
14. If no, why you did not get judgment yet?
15. Did you know how did the village court formed?      Yes      No
16. Did you nominate your representative to the court?      Yes      No
17. Why did you not lodge case in formal court?

18. What was the judgment of village court regarding your case?
19. Are you satisfied with the judgment?                      Yes    No
20. Did the judgment have permanently settled the dispute between you and opponents? Yes   No
21. Whether the judgment was implemented immediately or not?                      Yes   No
22. If not, what were the causes?
23. Was there any expense for conducting the case or not?                      Yes   No
24. If yes, how much and how did you manage the cost?
25. Did you face any difficulty in presenting the witness to the village court?    Yes   No
26. Did you face any problem in the court?                      Yes   No
27. If yes what types of problems?
28. What is your assessment regarding the chairman of the village court?
29. What is your overall assessment of the village court? Will you advice others to go to the village court?
30. Do you have any suggestion for the better performance of the village court?

Date:

Thanks for the cooperation

Md. Nazrul Islam Sarker

**Questionnaire-2: For the Petitioners of the Village Courts ('Activating Village Court Project' area)**

(All information collected in this study will be used for the study only and the anonymity of the respondent is ensured)

1. Name:
2. Sex:
3. Village:
4. Union:
5. Upazila:
6. District:
7. Educational Background:
8. Occupation:
9. Monthly Income:
10. What was the nature of the case you lodge in the village court?
11. When did you lodge the case?
12. Did you get judgment of your case?            Yes   No
13. If yes, how many days required for the disposal of the case?
14. If no, why you did not get judgment yet?
15. Did you know how did the village court formed?        Yes   No
16. Did you nominate your representative to the court?    Yes   No
17. Why did you not lodge case in formal court?
18. What was the judgment of village court regarding your case?
19. Are you satisfied with the judgment?        Yes   No
20. Did the judgment have permanently settled the dispute between you and opponents? Yes   No
21. Whether the judgment was implemented immediately or not?    Yes   No

22. If not, what were the causes?
23. Was there any expense for conducting the case or not? Yes No
24. If yes, how much and how did you manage the cost?
25. Did you face any difficulty in presenting the witness to the village court? Yes No
26. Did you face any problem in the court? Yes No
27. If yes what types of problems?
28. What is your assessment regarding the chairman of the village court?
29. Do you know 'Activating Village Court Project' is working in your area for the better performance of village court? Yes No
30. If yes, did you notice any changes of performance of the village court after initiating project?  
If yes, what types of changes?
31. What is your opinion about expenses for conducting the case after initiating project? Is it increase or decrease?
32. Do you think people's trust is increasing on village court after initiating project? Yes No
33. Do you think village court is more effective after initiating project? Yes No
34. What is your overall assessment of the village court? Will you advice others to go to the village court?
35. Do you have any suggestion for the better performance of the village court?

Date:

Thanks for the cooperation

Md. Nazrul Islam Sarker

**Questionnaire-3: For the Opponents of the Village Courts (outside ‘Activating Village Court project’ area)**

(All information collected in this study will be used for the study only and the anonymity of the respondent is ensured)

1. Name:
2. Sex:
3. Village:
4. Union:
5. Upazila:
6. District:
7. Educational Background:
8. Occupation:
9. Monthly Income:
10. What was the nature of the case you face in the village court?
11. When did you notice about the case?
12. Did you get judgment of your case? Yes No
13. If yes, how many days required for the disposal of the case?
14. If no, why you did not get judgment yet?
15. Did you know how did the village court formed? Yes No
16. Did you nominate your representative to the court? Yes No
17. Did you submit any written statement to the village court? Yes No
18. What was the judgment of village court regarding your case?
19. Are you satisfied with the judgment? Yes No
20. Did the judgment have permanently settled the dispute between you and opponents? Yes No

21. Whether the judgment was implemented immediately or not? Yes No
22. If not, what were the causes?
23. Was there any expense for conducting the case or not? Yes No
24. If yes, how much and how did you manage the cost?
25. Did you face any difficulty in presenting the witness to the village court? Yes No
26. Did you face any problem in the court? Yes No
27. If yes what types of problems?
28. What is your assessment regarding the chairman of the village court?
29. What is your overall assessment of the village court? Will you advice others to go to the village court?
30. Do you have any suggestion for the better performance of the village court?

Date:

Thanks for the cooperation

Md. Nazrul Islam Sarker



**Questionnaire-4:For the opponents of the Village Courts (‘Activating Village Court project’ area)**

(All information collected in this study will used for the study only and the unanimity of the respondent is ensured)

1. Name:
2. Sex:
3. Village:
4. Union:
5. Upazila:
6. District:
7. Educational Background:
8. Occupation:
9. Monthly Income:
10. What was the nature of the case you face in the village court?
11. When did you notice about the case?
12. Did you get judgment of your case? Yes No
13. If yes, how many days required for the disposal of the case?
14. If no, why you did not get judgment yet?
15. Did you know how did the village court formed? Yes No
16. Did you nominate your representative to the court? Yes No
17. Did you submit any written statement to the village court? Yes No
18. What was the judgment of village court regarding your case?
19. Are you satisfied with the judgment? Yes No

20. Did the judgment have permanently settled the dispute between you and opponents? Yes No
21. Whether the judgment was implemented immediately or not? Yes No
22. If not, what were the causes?
23. Was there any expense for conducting the case or not? Yes No
24. If yes, how much and how did you manage the cost?
25. Did you face any difficulty in presenting the witness to the village court? Yes No
26. Did you face any problem in the court? Yes No
27. If yes what types of problems?
28. What is your assessment regarding the chairman of the village court?
29. Do you know ‘Activating Village Court Project’ is working in your area for the better performance of village court? Yes No
30. If yes, did you notice any changes of performance of the village court after initiating project?  
If yes, what types of changes?
31. What is your opinion about expenses for conducting the case after initiating project? Is it increase or decrease?
32. Do you think people’s trust is increasing on village court after initiating project? Yes No
33. Do you think village court is more effective after initiating project? Yes No
34. What is your overall assessment of the village court? Will you advice others to go to the village court?
35. Do you have any suggestion for the better performance of the village court?

Date:

Thanks for the cooperation

Md. Nazrul Islam Sarker

**Questionnaire-5: For the Chairman of the Village Courts (outside ‘Activating Village Court project’ area)**

(All information collected in this study will be used for the study only and the anonymity of the respondent is ensured)

1. Name:
2. Village:
3. Union:
4. Upazila:
5. District:
6. Educational Background:
7. Profession:
8. Monthly Income:
9. Do you know village court is conducted by which law at present? Yes No
10. Do you know how does village court form? Yes No
11. Whether the village court is formed in your Union or not? Yes No
12. If not formed. Why?
13. If formed –
  - a) Do you conduct the village court at a particular day of the week or month? Yes No
  - b) What types of cases are frequently lodged in the village court?
  - c) What are the most frequent types of judgments passed by the village court?
  - d) If any party does not comply with the order of the court what you do?
  - e) How compensation money is collected?
  - f) Number of cases pending for more than 6 months.
  - g) What are the causes for such pending?
  - h) Whether the case registers maintained properly or not? Yes No

I) Whether the case files are preserved or not? Yes No

14. In your opinion, why do the people come to the village court?

17. Do you face any problem during conducting the court? Yes No

18. What is your suggestion for the better performance of the village court?

Date:

Thanks for the cooperation

Md. Nazrul Islam Sarker

**Questionnaire-6: For the Chairman of the Village Courts (‘Activating Village Court project’ area)**

(All information collected in this study will be used for the study only and the anonymity of the respondent is ensured)

1. Name:
2. Village:
3. Union:
4. Upazila:
5. District:
6. Educational Background:
7. Profession:
8. Monthly Income:
9. Do you know village court is conducted by which law at present? Yes No
10. Do you know how does village court form? Yes No
11. Whether the village court is formed in your Union or not? Yes No
12. If not formed. Why?
13. If formed –
  - a) Do you conduct the village court at a particular day of the week or month? Yes No
  - b) What types of cases are frequently lodged in the village court?
  - c) What are the most frequent types of judgments passed by the village court?
  - d) If any party does not comply with the order of the court what you do?
  - e) How compensation money is collected?

f) Number of cases pending for more than 6 months.

g) What are the causes for such pending?

h) Whether the case registers maintained properly or not? Yes No

I) Whether the case files are preserved or not? Yes No

14. In your opinion, why do the people come to the village court?

17. Do you face any problem during conducting the court? Yes No

18. Do you know 'Activating Village Court Project' is working in your area for the better performance of village court? Yes No

19. If yes, did you notice any changes of performance of the village court after initiating project?  
If yes, what types of changes?

20. Do you think people's trust is increasing on village court after initiating project? Yes No

21. Do you think village court is more effective after initiating project? Yes No

22. Do you have any suggestion for the better performance of the village court?

Date:

Thanks for the cooperation

Md. Nazrul Islam Sarker

**Questionnaire-7: For the Local Elites (outside ‘Activating Village Court project’ area)**

(All information collected in this study will used for the study only and the unanimity of the respondent is ensured)

1. Name:
2. Sex:
3. Father’s name:
4. Village:
5. Union:
6. Upazila:
7. District:
8. Educational Background:
9. Occupation:
10. Monthly income:
11. Are you permanent resident of this union or not? Yes No
12. If not, how many years are you staying in this union?
13. What is your understanding about the village court?
14. Do you have any idea about the activities of the village court in this union? Yes No
15. Did you ever nominated as a member of this village court? Yes No
16. Do you know of any instance of not accepting any case by the village court? If so, do you know the reasons for?
17. Do you know how the village courts are formed?
18. Do you know how many days are required for the disposal of the cases in the village courts?  
Yes No
19. Do the parties have to face any sort of problem for conducting the cases in the village courts?  
Yes No. If yes, what types of problems?

20. In your opinion what are the advantages and disadvantages of the village courts?

Advantages:

Disadvantages:

21. What are your suggestions for the better performance of the village courts?

Date:

Thanks for the cooperation

Md. Nazrul Islam Sarker



**Questionnaire-8: For the Local Elites ('Activating Village Court project' area)**

(All information collected in this study will used for the study only and the unanimity of the respondent is ensured)

1. Name:
2. Sex:
3. Father's name:
4. Village:
5. Union:
6. Upazila:
7. District:
8. Educational Background:
9. Occupation:
10. Monthly income:
11. Are you permanent resident of this union or not? Yes No
12. If not, how many years are you staying in this union?
13. What is your understanding about the village court?
14. Do you have any idea about the activities of the village court in this union? Yes No
15. Did you ever nominated as a member of this village court? Yes No
16. Do you know of any instance of not accepting any case by the village court? If so, do you know the reasons for?
17. Do you know how the village courts are formed?
18. Do you know how many days are required for the disposal of the cases in the village courts?  
Yes No
19. Do the parties have to face any sort of problem for conducting the cases in the village courts?  
Yes No. If yes, what types of problems?

20. In your opinion what are the advantages and disadvantages of the village courts?

Advantages:

Disadvantages:

21. Do you know ‘Activating Village Court Project’ is working in your area for the better performance of village court? Yes No

22. If yes, did you notice any changes of performance of the village court after initiating project? Yes No. If yes, what types of changes?

23. What is your opinion about expenses for conducting the case after initiating project? Is it increase or decrease?

24. Do you think people’s trust is increasing on village court after initiating project? Yes No

25. Do you think village court is more effective after initiating project? Yes No

26. What are your suggestions for the better performance of the village courts?

Date:

Thanks for the cooperation

Md. Nazrul Islam Sarker